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June 30, 2016

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of Lifeline Connects Coalition Oral *Ex Parte* Presentation;
WC Docket Nos. 11-42, 09-197, 10-90

Dear Ms. Dortch:

On June 28, 2016, Susan Berlin of Telrite Corporation; Jeni Kues of i-wireless, LLC; Melissa Slawson of Blue Jay Wireless, LLC; Alex Rodriguez of CGM, LLC; and John Heitmann and Joshua Guyan of Kelley Drye & Warren LLP met on behalf of the Lifeline Connects Coalition (Coalition)¹ separately with Claude Aiken from Commissioner Clyburn's office; Gigi Sohn, Stephanie Weiner, Amber Lucci and Chavez Adams from Chairman Wheeler's office; Travis Litman from Commissioner Rosenworcel's office; and Matt DelNero, Trent Harkrader, Ryan Palmer, Jodie Griffin, Christian Hoefly and Nathan Eagan from the Wireline Competition Bureau (Bureau) to discuss the Lifeline program and the Petition for Reconsideration and Clarification filed by the Coalition along with several other wireless Lifeline ETCs and stakeholders.²

In the meeting, we discussed the Coalition's appreciation for the Commission's diligence and compromises reflected in the Lifeline Modernization Order³ to promote the provision of broadband service to low-income Americans through the Lifeline program. In particular, the 12-

¹ The members of the Lifeline Connects Coalition are American Broadband & Telecommunications; Blue Jay Wireless, LLC; i-wireless, LLC; and Telrite Corporation.

² See Joint Lifeline ETC Petitioners' Petition for Partial Reconsideration and Clarification, WC Docket Nos. 11-42, 09-197, 10-90 (filed June 23, 2016) (Petition for Reconsideration).

³ See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, (rel. Apr. 27, 2016) (Lifeline Modernization Order).

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month benefit port freeze for broadband minimum service standard (MSS)-compliant Lifeline services is essential to allow the Coalition members to meet the December 1, 2016 broadband MSS and provide low-income consumers with a Wi-Fi-capable (and in some cases hotspot-capable) smartphones. The Coalition members intend to seek Lifeline Broadband Provider status pursuant to the process established in the Lifeline Modernization Order and provide broadband MSS-compliant service offerings. Because of the service stability created by the 12 month port freeze, the Lifeline program will transition to broadband this year.

The Coalition filed its Petition for Reconsideration not as a broad challenge to the goals or direction envisioned in the Lifeline Modernization Order, but rather to call the Commission's attention to modifications to the approach that can more effectively meet the Commission's goals of supporting affordable Lifeline voice and broadband service for low-income households. We have included as an exhibit a summary of the Petition for Reconsideration focusing on reconsideration of the broadband MSS formula after December 1, 2018; reconsideration of the reduction in support for voice service after December 1, 2019; clarification regarding decrementing megabytes with voice minutes and texts in bundled service offerings; clarification that the National Verifier will provide enrollment decisions in real-time; confirming safe harbors for enrollments in the National Verifier and use of Bureau or Universal Service Administrative Company (USAC) approved forms; extending the streamlined processing for Lifeline Broadband Providers to voice federal ETC petitions before the Commission and other Bureau decision-making; clarifying that ETCs will remain heavily involved in the annual recertification process when the National Verifier takes on that process; and reconsidering the decision under the new rolling recertification process to not accept Lifeline service transfers (which involve a new enrollment) to satisfy the annual recertification requirement for the year.

In addition, we discussed potential confusion regarding the use of Commission and USAC-established dispute resolution processes for Third Party Identity Verification (TPIV), applicant addresses and the Independent Economic Household (IEH) worksheet and process established to implement the Commission's one-per-household rule. The use of Commission-approved and USAC-administered exceptions processes does not constitute an override of federal protections. Rather, these Commission and USAC-established processes are required by the 2012 Lifeline Reform Order "to ensure that subscribers are not mistakenly denied benefits."⁴

⁴ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice Of Proposed Rulemaking, FCC 12-11, ¶ 201 (2012) (2012 Lifeline Reform Order) ("Because of the benefits and limited costs of identification verification, we conclude that the database must have the capability of performing an identification verification check when an ETC or other party submits a query to the database about a potential consumer. In response to the query, the database must indicate whether the subscriber's identity can be verified,

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Although the letters have not been made public, it appears that USAC provided information indicating that many ETCs submitted TPIV “overrides” or dispute resolutions for more than 90 percent of new subscribers.⁵ This claim is difficult to believe and we hope that the Bureau and/or USAC are able to clarify this soon. What is much more likely than TPIV exceptions for 90 percent or more of enrollments is that 90 percent or more of enrollments included a “T code” indicating that a form of identification documentation was viewed (and likely retained) as part of the enrollment.⁶

The National Lifeline Accountability Database (NLAD) uses a Lexis Nexis TPIV product to verify the identity of Lifeline applicants. When applicants are not found in the database (as happens with all databases because they are imperfect), the applicant and the enrolling ETC can submit a dispute resolution by collecting identification documentation and submitting a T code indicating what documentation was collected so that the enrollment can be completed. Many ETCs, including the Coalition members, submit T codes on virtually every enrollment because they collect identity documentation on every enrollment (e.g., driver’s license). They do this because in many cases they are required to collect photo identification pursuant to a Bureau-approved compliance plan or as a compliance best practice. That does not mean that the T code is used to “override” the TPIV verification on every enrollment. It means that if the applicant cannot be found in the Lexis Nexis TPIV verification, the ETC has collected identity documentation that can be used for a dispute resolution that is processed and approved by USAC.

We understand that the Lexis Nexis TPIV check occurs on all enrollments in the NLAD. However, the TPIV product that NLAD uses from Lexis Nexis creates too many failures that require a dispute resolution. There are Lexis Nexis TPIV products that recognize some differences in the information being compared (e.g., Heitmann versus Heitman) and still verify a person’s identity. However, we understand that the Lexis Nexis TPIV product that the NLAD uses requires a perfect match in all data fields. Therefore, many more applicants fail the TPIV check and have to provide identity documentation and submit a TPIV dispute resolution than is necessary. The

and if not, provide error codes to indicate why the identity could not be verified. To ensure that subscribers are not mistakenly denied benefits, USAC must establish a process, as part of the resolution process described below, so that those consumers who failed the identification verification are able to either provide additional information to verify their identity, or correct errors in the information utilized to validate the subscriber’s identification. As noted above, the database and identification verification process must be able to accommodate consumer addresses that are not recognized by the U.S. Postal Service (e.g., residences on Tribal lands). We direct USAC to facilitate this process by publishing its processes and rules used to verify subscriber identification.”) (emphasis added).

⁵ See Letter from Commissioner Ajit Pai to the Universal Service Administrative Company (May 31, 2016) referencing letters from USAC dated May 2, May 18 and May 25.

⁶ See USAC Third Party Identity Verification (TPIV) Failure Resolution, available at <http://www.usac.org/li/tools/nlad/dispute-resolution/tpiv-failure-dr.aspx> (last visited June 30, 2016).

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NLAD could create fewer TPIV dispute resolutions by using a better Lexis Nexis TPIV product. This fact is something that the Coalition and others raised and explained several times in its comments on the 2015 Lifeline FNPRM.⁷ We are not aware that USAC has audited the identification documentation collected for TPIV dispute resolutions, but it certainly can. Further, USAC could issue guidance regarding any concerns it sees with use of certain identification documentation or other Lifeline enrollment documentation like proof of eligibility. If the Bureau has concerns with the use of temporary cards for proof of eligibility, it should issue appropriate guidance so that ETCs can know the circumstances, if any, in which they should not be accepted.

Second, there is a similar necessity for a dispute resolution process for applicant addresses, but the process can be improved. NLAD's processes also create more address failures than necessary, which requires applicants to provide proof of address and to submit a dispute resolution, which is an additional burden on the consumer. The NLAD uses AMS, which is the U.S. Postal Service's address database. Many ETCs, businesses and other agencies⁸ use the Melissa database, which adds the UPS and FedEx databases to AMS. Therefore, applicant addresses can often be found in the Melissa database, but cannot be found by the NLAD. In that case, the ETC must collect address documentation. Here, too, a better database solution could create fewer situations requiring use of an exception.

Finally, the IEH worksheet and process is not an exception or a dispute resolution, but rather the means by which the Commission implements its one-per-household rule since household is not defined solely by residential address. Multi-household dwellings are common for a wide array of cultural and economic reasons in the low-income demographic. For economic reasons, households often share a roof, with homeless shelters being an extreme but common example. Address duplicates also can occur because the eligible population is highly transient and subscribers move

⁷ See Comments of the Lifeline Joint Commenters on the Second Further Notice of Proposed Rulemaking to Modernize and Restructure the Lifeline Program, WC Docket Nos. 11-42, 09-197, 10-90, n.72, n.85, p. 50, n. 113 (filed Aug. 31, 2015) (Joint Comments). In the Joint Comments, we stated,

The current NLAD TPIV process creates too many failures because it requires an exact match of all Lexis Nexis data for all applicant information fields rather than matching enough information to confirm the identity (which is what the Lexis Nexis solution is designed to do). This problem is exacerbated where the databases that Lexis Nexis uses include bad data or little data. Replacing the current exact match process will result in far fewer TPIV failures, thus reducing the adverse impact the current process has on eligible consumers and service providers.

⁸ See Melissa Data, Government and Public Sector page, *available at* <https://www.melissadata.com/dqt/government.htm> (last visited June 30, 2016) (noting customers such as the Federal Deposit Insurance Corp. and the Department of Veterans Affairs).

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without updating NLAD (meaning that a new tenant at the residence that is Lifeline eligible will trigger an address duplicate even when no other person or family lives at the address). These are not indications of fraud in the Lifeline program. With that said, the current IEH worksheet should be streamlined and simplified because it is far too difficult for consumers to understand. To that end, the industry submitted recommended improvements to the worksheet to the Commission in 2014.⁹ The Commission could also eliminate the one-per-household rule to have the Lifeline program better reflect how non-low-income consumers purchases communications services, but that seems unlikely at this time.

The Coalition looks forward to providing broadband Lifeline services under the new frameworks identified in the Lifeline Modernization Order and to working with the Commission and USAC on ways to improve the enrollment processes both before and after the National Verifier is implemented.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



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⁹ See Letter from John Heitmann, Danielle Frappier and Norina Moy to Marlene Dortch, WC Docket No. 11-42 (filed Sept. 24, 2014).

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Matt DelNero
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Ryan Palmer
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Christian Hoefly
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Exhibit

Lifeline Connects Coalition
Petition for Partial Reconsideration and Clarification
Filed June 23, 2016

The Lifeline Connects Coalition applauds the Commission for taking important steps in the Lifeline Modernization Order to bring the Lifeline program further into the 21st Century. However, several aspects of the adopted rules would undermine the important goals of the Lifeline program. In its petition for reconsideration and clarification, the Coalition offers targeted proposals for rule changes or clarifications that would enhance competition, consumer dignity and innovation, while removing unnecessary friction and confusion in the rules as initially adopted.

I. The Commission's Minimum Service Standards Should Be Revised to Account for the Affordability Challenges of Low-Income Americans and the Continuing Value of Voice Service

- **Modify the Minimum Service Standard Formula and Adopt a More Graduated Phase-In.** In the Lifeline Modernization Order, the Commission establishes a minimum service standard that disregards the Lifeline Program's "central touchstone" of affordability for determining the minimum service standard. It is literally not part of the "formula". The formula is also based on meeting the needs of an average multi-member household and would disproportionately impact smaller-than-average households by forcing them to buy more data than they likely want or need. The Coalition proposes an alternative formula for devising the minimum service standard that directly addresses the infirmities of the Commission's adopted formula, but would still provide an evolving and generous level of service for low-income consumers. That proposal is as follows:
 - **Step 1:** the Commission determines the average mobile broadband data usage per individual as reported by the Commission in its annual Mobile Competition Report, rounds that number to the nearest hundredths place, multiplies that result by 0.7 "to adjust for the fact that in these circumstances a 'substantial majority' of subscribers will use less than the average," and rounds that result down to the nearest 250 MB.
 - **Step 2:** the Commission compares the result of Step 1 to the average retail price of similar offerings in the market to determine whether the minimum standard would be "reasonably affordable to the average low-income single-person household." If the answer is "yes," then the result of Step 1 will be the minimum service standard. If the answer is "no," then the Commission will take steps necessary to make the minimum service standard affordable, e.g., by lowering the standard or increasing the subsidy. In either case, the minimum service standard will be effective beginning December 1 of the following year.

If this framework were applied today based on the average individual usage (1.361 GB per month), Step 1 would result in a starting minimum service standard of 750 MB per month beginning December 1, 2017. Based on average usage increases over the last several years (approximately 240 MB per year), we project that the minimum service standard beginning December 1, 2018 would be 1 GB, followed by 1.25 GB on December 1, 2019. Using current pricing as a foundation, we believe that this standard accurately reflects market trends and in the near term would not require resorting to the safety valve.

- **Complete the State of the Lifeline Marketplace Report Before Sunsetting Voice Support.** The Commission should not step down support for mobile voice Lifeline service until it has completed its review of the Wireline Competition Bureau's (Bureau's) State of the Lifeline Marketplace Report because ETCs will not be able to provide the voice minimum service standards at the reduced reimbursement rate and consumers will start to lose access to voice service, including emergency calling. The Bureau should submit the Report by June 30, 2019.
- **Clarify Decrementing Rules for Bundles.** The Commission should clarify that ETCs may meet the minimum service standards for mobile voice and broadband service through a broadband offering that meets the minimum service standard but can be decremented with either voice, text or broadband usage in the same manner that consumers currently decrement voice plans through text messaging.

II. The Commission Should Reconsider or Clarify Several Issues Related to the National Lifeline Eligibility Verifier

- **Enable real-time eligibility verification.** The Commission should clarify that the National Verifier will verify eligibility in real-time. Real-time enrollment is essential to preserving equality of consumer experience for low-income and non-low-income consumers; the dignity of low-income consumers; and the ability for ETCs to provide advanced handsets and services.
- **Adopt common-sense safe harbors.** The Commission should adopt several safe harbors to encourage participation of Lifeline broadband providers by easing the enforcement risks for ETCs including: a safe harbor for enrollments using the National Verifier since ETCs will not retain eligibility documentation and a safe harbor for ETCs that use any universal or standardized forms that the Bureau or USAC adopts.

III. The Commission Should Extend Streamlined Consideration to All ETC Petitions

- The Commission should extend the 60-day streamlined designation process to voice-based ETC petitions, which will increase competition in the voice Lifeline market, driving down costs and promoting service-level innovation.
- The Commission should also impose streamlined processing for appeals, guidance and other decisions affecting the Lifeline program such that ETC requested actions are deemed granted if not acted upon in a set timeframe.

IV. The Commission Should Retain Certain Aspects of the Current Annual Recertification Process in the New Rolling Recertification to Avoid Confusing and Burdening Customers and Discouraging Lifeline Providers from Providing Enhanced Equipment and Services

- The Commission should clarify that ETCs will be heavily involved in the recertification process through customer contact and information collection.
- The Commission should reconsider its decision not to require ETCs to recertify subscribers that switched service providers in the same year because this will confuse and unnecessarily burden consumers and result in de-enrollment of more eligible Lifeline subscribers each year.